

STATE OF INDIANA)
) SS: BEFORE THE INDIANA DEPARTMENT
COUNTY OF MARION) OF ENVIRONMENTAL MANAGEMENT

COMMISSIONER OF THE DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT,

Complainant,

V.

UNITED STATES STEEL CORPORATION,

Respondent.

Case No. 1999-8514-A
Case No. 2000-8877-A
Case No. 2000-9300-A
Case No. 2001-9301-A
Case No. 2000-9299-A
Case No. 2001-9302-A
Case No. 2000-9673-A
Case No. 2000-9759-A
Case No. 2000-9760-A
Case No. 2001-9790-A
Case No. 2001-10582-A
Case No. 2003-15205-A
Case No. 2003-15219-A
Case No. 2003-15229-A
Case No. 2003-15230-A
Case No. 2003-15247-A
Case No. 2003-15254-A
Case No. 2003-15255-A
Case No. 2004-15212-A
Case No. 2004-15231-A
Case No. 2004-15232-A
Case No. 2004-15234-A
Case No. 2004-15236-A
Case No. 2004-15248-A
Case No. 2004-15249-A
Case No. 2004-15256-A
Case No. 2004-15257-A
Case No. 2005-15207-A
Case No. 2005-15215-A
Case No. 2005-15220-A
Case No. 2005-15237-A
Case No. 2005-15240-A
Case No. 2005-15250-A
Case No. 2005-15251-A
Case No. 2005-15258-A
Case No. 2005-15259-A
Case No. 2005-15401-A

AGREED ORDER

The Complainant and the Respondent desire to settle and compromise this action

without hearing or adjudication of any issue of fact or law, and consent to the entry of the following Findings of Fact and Order. Pursuant to IC 13-30-3-3, entry into the terms of this Agreed Order does not constitute an admission of any violation contained herein. Respondent's entry into this Agreed Order shall not constitute a waiver of any defense, legal or equitable, which Respondent may have in any future administrative or judicial proceeding, except a proceeding to enforce this Order.

I. FINDINGS OF FACT

1. **Complainant is the Commissioner ("Complainant") of the Indiana Department of Environmental Management, a department of the State of Indiana created by IC 13-13-1-1.**
2. **Respondent is United States Steel Corporation ("Respondent"), which owns and operates an integrated steel mill with plant I. D. No. 089-00121, located at 1 North Broadway in Gary, Lake County, Indiana ("Site").**
3. **The Indiana Department of Environmental Management ("IDEM") has jurisdiction over the parties and the subject matter of this action.**
4. **Pursuant to IC 13-30-3-3, on November 30, 1999, IDEM issued a Notice of Violation ("NOV") via Certified Mail to:**

Kenneth Mentzel, Manager	The Prentice-Hall Corporation
Environmental Controls	System, Inc.
U. S. Steel Group	Registered Agent for
1 North Broadway	USX Corporation
Gary, Indiana 46402	50 South Meridian Street, Suite 700
	Indianapolis, Indiana 46204

5. **Pursuant to IC 13-30-3-3, on August 19, 2002, IDEM issued an amended NOV via Certified Mail to:**

Thomas Usher, President	Corporation Service Company
United States Steel Corporation	Registered Agent for
600 Grant Street	United States Steel Corporation
Pittsburgh, Pennsylvania 15219	251 East Ohio Street, Suite 500
	Indianapolis, Indiana 46204

6. **Pursuant to IC 13-30-3-3, on December 27, 2005, IDEM issued an NOV via Certified Mail to:**

Mr. J. P. Surma, President	National Registered Agents, Inc.
United States Steel Corporation	Registered Agent for
600 Grant Street	United States Steel Corporation
Pittsburgh, Pennsylvania 15219	320 North Meridian Street
	Indianapolis, Indiana 46204

7. **For those violations not enumerated in a Notice of Violation, the Respondent**

waives issuance of a Notice of Violation and to the settlement period of sixty (60) days as provided for by IC 13-30-3-3.

8. Based on series of investigations, stack tests, and records review, IDEM has reason to believe that Respondent, has violated the following environmental rules and enforceable conditions within adopted Agreed Order Cause No. A-960:

- a. Pursuant to 326 IAC 5-1-2(2)(B), opacity of visible emissions (“VE”) from a facility located in Lake County shall not exceed an average of 20% in any one six-minute averaging period unless otherwise specified in 326 IAC 6-1-10.1.**
- b. Pursuant to 326 IAC 3-5-1(c)(7), sources making coke from coal shall monitor opacity on the underfire stack associated with each coke oven battery.**
- c. Pursuant to 326 IAC 6-10.1(e), VE opacity from the No. 1 basic oxygen process (“BOP”) facility’s roof monitor and the No. 2 basic oxygen process facility’s (“Q-BOP”) roof monitor at Respondent’s Site shall not exceed an average of 20% in any one 3-minute averaging period.**
- d. Pursuant to 326 IAC 6-1-10.2(c)(1), no VE shall be permitted from more than 10% of the observed coke oven doors on any coke oven battery. The number of coke-side doors and push-side doors shall be counted in determining compliance with this emission limit.**
- e. Pursuant to 326 IAC 6-10.2(c)(2), no VE shall be permitted from the charging system for more than a cumulative total of 125 seconds during five (5) consecutive charging periods.**
- f. Pursuant to 326 IAC 6-10.2(c)(3)(A), VE opacity from the coke-side of a coke oven to be pushed, before the first movement of the coke from the oven to the coke car begins, shall not exceed 20%. The opacity shall be determined on an instantaneous basis at the top of the battery.**
- g. Pursuant to 326 IAC 6-1-10.2(c)(3)(B), the VE opacity during the pushing operation shall not exceed 20%. The pushing operation shall be considered to begin with the first movement of coke from the oven into the coke car and to the end when the quench car enters the quench tower. The opacity shall be determined using 40 CFR 60, Appendix A, Method 9, except that the readings shall be taken at 15-second intervals. Six consecutive readings shall be averaged to determine the opacity.**
- h. Pursuant to 326 IAC 6-1-10.2(c)(5), no VE shall be permitted from more than 5% of the total offtake piping in any coke oven battery. At no time shall the VE from any gooseneck cap opening exceed 20%. An exclusion from this opacity limit shall be allowed for two minutes after a gooseneck cap is opened. The opacity shall be determined on an instantaneous basis.**
- i. Pursuant to 326 IAC 6-1-11.1(d)(3)(A), during material transfer, where wetting of material for fugitive particulate emissions control is prohibitive**

to further processing or reuse of the material, VE opacity shall not exceed 10% 3-minute average.

- j. Pursuant to 326 IAC 6-11.1(d)(7)(D), there shall be zero percent (0%) frequency of VE observations from a building enclosing all or part of a material processing equipment, except from a vent in the building.
- k. Pursuant to 326 IAC 6-11.1(d)(9), any fugitive particulate matter ("PM") facility or operation, located in Lake county, that is not specified in this subsection shall meet a 20% 3-minute average opacity standard. Compliance with this limitation shall be determined by 40 CFR 60, Appendix A, Method 9, except that the opacity standard shall be determined as an average of 12 consecutive observations recorded at 15-second intervals. Compliance of any operation lasting less than three minutes shall be determined as an average of consecutive operations recorded at 15-second intervals for the duration of the operation.
- l. Pursuant to Order Paragraph No. B(3)(c) of Agreed Order No. A-960, et al., adopted on March 22, 1996 ("Order"), Respondent shall be required to conduct performance tests in accordance with 326 IAC 3-2.1 (currently 3-6) and the protocol specified in Exhibit C of the Order, at the electrostatic precipitator ("ESP") stacks for the No. 2 and 3 Precarbonization Systems. In a testing agreement issued by IDEM's Office of Enforcement on July 6, 1998, this protocol was amended and a limit of 31.25 pounds per hour for the filterable and condensable particulate matter ("PM/CPM") emissions for the Nos. 2 and 3 Precarbonization Line ESP stacks was established.

9. The violations enumerated in Findings of Fact Paragraph No. 7 are based on the following findings:

a. No. 4 Blast Furnace ("BF")

- i. December 31, 1998 cast house VE exceeded the 20% opacity limit during one 6-minute averaging period in violation of 326 IAC 5-1-2(2)(B);

furnace top VE exceeded the 20% opacity limit during four 3-minute averaging periods in violation of 326 IAC 6-1-11.1(d)(9)
- ii. February 9, 1999 cast house VE exceeded the 20% opacity limit during three 6-minute averaging periods in violation of 326 IAC 5-1-2(2)(B)
- iii. March 18, 1999 furnace top VE exceeded the 20% opacity limit during three 3-minute averaging periods in violation of 326 IAC 6-1-11.1(d)(9)
- iv. September 9, 1999 furnace top VE exceeded the 20% opacity limit during six 3-minute averaging periods in violation of 326 IAC 6-1-11.1(d)(9)

- v. September 17, 1999 furnace top VE exceeded the 20% opacity limit during four 3-minute averaging periods in violation of 326 IAC 6-1-11.1(d)(9)
 - vi. January 6, 2000 cast house VE exceeded the 20% opacity limit during one 6-minute averaging period in violation of 326 IAC 5-1-2(2)(B)
- b. No. 8 BF
- i. i. August 8, 2001 cast house VE exceeded the 20% opacity limit during two 6-minute averaging periods in violation of 326 IAC 5-1-2(2)(B)
 - ii. September 3, 2002 furnace top VE exceeded the 20% opacity limit during seven 3-minute averaging periods in violation of 326 IAC 6-1-11.1(d)(9)
 - iii. September 27, 2002 furnace top VE exceeded the 20% opacity limit during two 3-minute averaging periods in violation of 326 IAC 6-1-11.1(d)(9)
 - iv. July 21, 2005 VE opacity exceeded 20% 6-minute average once and was 35.4% in violation of 326 IAC 5-1-2(2)(B)
 - v. August 3, 2005 VE opacity exceeded 20% 6-minute average in violation of 326 IAC 5-1-2(2)(B)
- c. No. 13 BF
- i. June 16, 1999 furnace top VE exceeded the 20% opacity limit during ten 3-minute averaging periods in violation of 326 IAC 6-1-11.1(d)(9)
 - ii. June 22, 1999 furnace top VE exceeded the 20% opacity limit during three 3-minute averaging periods in violation of 326 IAC 6-1-11.1(d)(9)
 - iii. January 4, 2000 cast house VE exceeded the 20% opacity limit during two 6-minute averaging periods in violation of 326 IAC 5-1-2(2)(B)
 - iv. January 29, 2002 during loading of B-mix slag, the average instantaneous VE exceeded the 10% opacity limit during two loading events in violation of 326 IAC 6-1-11.1(d)(3)(A);
- VE were observed exiting the stock house building through several building openings in

violation of 326 IAC 6-1-11.1(d)(7)(D)**d. No. 2 Boiler Stack:**

- i. June 7, 2000 boiler stack VE exceeded the 20% opacity limit during two 6-minute averaging periods in violation of 326 IAC 5-1-2(2)(B)
- ii. June 22, 2000 boiler stack VE exceeded the 20% opacity limit during one 6-minute averaging period in violation of 326 IAC 5-1-2(2)(B)

e. No. 5 Boiler Stack

- i. September 28, 2000 boiler stack VE exceeded the 20% opacity limit during two 6-minute averaging periods in violation of 326 IAC 5-1-2(2)(B)

f. No. 1 BOP Melt Shop

- i. November 12, 1998 roof monitor VE exceeded the 20% opacity limit during five 3-minute averaging periods in violation of 326 IAC 6-1-10.1(e)
- ii. March 18, 1999 roof monitor VE exceeded the 20% opacity limit during two 3-minute averaging periods in violation of 326 IAC 6-1-10.1(e)
- iii. January 6, 2000 roof monitor VE exceeded the 20% opacity limit during one 3-minute averaging periods in violation of 326 IAC 6-1-10.1(e)
- iv. June 6, 2000 roof monitor VE exceeded the 20% opacity limit during four 3-minute averaging periods in violation of 326 IAC 6-1-10.1(e)
- v. June 22, 2000 roof monitor VE exceeded the 20% opacity limit during two 3-minute averaging periods in violation of 326 IAC 6-1-10.1(e);

VE were observed escaping from the main flux conveyor that transports materials from the truck dump to the No. 1 BOP Melt Shop, then into the building in violation of 326 IAC 6-1-11.1(d)(7)(D)

- vi. September 13, 2000 roof monitor VE exceeded the 20% opacity limit during one 3-minute averaging period in violation of 326 IAC 6-1-10.1(e)
- vii. September 29, 2000 roof monitor VE exceeded the 20%

opacity limit during one 3-minute averaging period in violation of 326 IAC 6-1-10.1(e)

- viii. **November 22, 2000** roof monitor VE exceeded the 20% opacity limit during two 3-minute averaging periods in violation of 326 IAC 6-1-10.1(e)
- ix. **April 12, 2002** roof monitor VE exceeded the 20% opacity limit during one 3-minute averaging period in violation of 326 IAC 6-1-10.1(e)
- x. **June 7, 2000** VE from five (5) dumping operations at the flux handling truck dump station exceeded the 20% opacity limit during two 3-minute averaging periods and three (3) additional periods, where the dumping lasted less than three (3) minutes in violation of 326 IAC 6-1-11.1(d)(9)
- xi. **March 21, 2000** gas cleaning scrubber stack VE exceeded the 20% opacity limit during three 6-minute averaging periods in violation of 326 IAC 6-1-10.1(e)
- xii. **January 8, 2002** VE were observed escaping from the south desulfurization station during desulfurization operations escaping from the collection hood main, flux conveyor that transports materials from the truck dump to the No. 1 BOP Melt Shop, then into the building; VE were escaping the building through the north door and the opening above the north door in violation of 326 IAC 6-1-11.1(d)(7)(D)

g. Coke Oven Battery ("COB") No. 2

- i. **October 20, 1998** 14 of 75 observed oven doors (18.7%) were leaking in violation of 326 IAC 6-1-10.2(c)(1);

Ovens 9, 11, and 21 exceeded the 20% opacity limit in 6 consecutive readings during pushing (3 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)
- ii. **December 11, 1998** VE opacity at ovens 2, 8, 14, and 16 exceeded the 20% opacity limit in 6 consecutive readings during pushing (4 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)
- iii. **April 22, 1999** VE opacity from the coke side of the battery, ovens 39 and 45, exceeded the 20% opacity limit before the first movement of coke (3 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(A)

- iv. **April 29, 1999** **VE opacity at ovens 39, 43, and 45 exceeded the 20% opacity limit in six (6) consecutive readings during pushing in violation of 326 IAC 6-1-10.2(c)(3)(B)**

- v. **April 25, 2000** **9 of 80 observed oven doors (11%) were leaking in violation of 326 IAC 6-1-10.2(c)(1);**

VE from ovens 24, 26, 28, 30, 32, and 34 exceeded the limit of 125 seconds during five (5) consecutive charging periods and lasted for a cumulative total of 189 seconds after oven 28 was exempted in violation of 326 IAC 6-1-10.2(c)(2);

VE opacity from the coke side of the battery, ovens 48 and 50 exceeded the 20% opacity limit before the first movement of coke (2 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(A);

VE opacity at ovens 48 and 50 exceeded the 20% opacity limit in 6 consecutive readings during pushing (2 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B);

Coke-side standpipe's No. 32 lid was open, emissions lasted three (3) minutes and 25 seconds, and the maximum VE opacity after the allowable two minutes, was 60% in violation of 326 IAC 6-1-10.2(c)(5)

- vi. **August 18, 2000** **11 of 100 observed oven doors (11%) were leaking in violation of 326 IAC 6-1-10.2(c)(1)**

- vii. **April 9, 2001** **21 of 88 observed oven doors (24%) were leaking in violation of 326 IAC 6-1-10.2(c)(1)**

- viii. **viii. July 6, 2001** **21 of 95 observed oven doors (17%) were leaking in violation of 326 IAC 6-1-10.2(c)(1)**

- ix. **July 10, 2001** **29 of 103 observed oven doors (28%) were leaking in violation of 326 IAC 6-1-10.2(c)(1);**

Open pusher-side standpipe cap on oven 13 had 100% VE opacity, which lasted longer than two minutes in violation of 326 IAC 6-1-10.2(c)(5)

- x. **November 1, 2001** **VE from ovens 47, 49, 51, 53, 55, and 57 exceeded the limit of 125 seconds during 5 consecutive charging periods and lasted for a cumulative total of 369 seconds after oven 47 was**

exempted in violation of 326 IAC 6-1-10.2(c)(2);

VE opacity at oven 4 exceeded the 20% opacity limit in 6 consecutive readings during pushing (3 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)

- xi. July 19, 2002** VE opacity at oven 33 exceeded the 20% opacity limit in 6 consecutive readings during pushing (4 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)
- xii. July 24, 2002** 21 of 94 observed oven doors (22%) were leaking in violation of 326 IAC 6-1-10.2(c)(1)
- xiii. October 15, 2002** VE opacity at ovens 30 and 32 exceeded the 20% opacity limit in 6 consecutive readings during pushing (2 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B);

7 of 114 off-take assemblies were leaking, resulting in 6% leakage exceeding the 5% limit in violation of 326 IAC 6-1-10.2(c)(5)
- xiv. May 1, 2003** VE opacity at ovens 50 and 52 exceeded the 20% opacity limit in 6 consecutive readings during pushing (4 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)
- xv. August 6, 2003** 12 of 101 observed oven doors (11.9%) were leaking in violation of 326 IAC 6-1-10.2(c)(1)
- xvi. July 13, 2004** 12 of 95 observed oven doors (12.6%) were leaking in violation of 326 IAC 6-1-10.2(c)(1);

VE opacity at ovens 4, 6, 8, and 10 exceeded the 20% opacity limit in 6 consecutive readings during pushing (4 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)
- xvii. September 14, 2004** 17 of 102 observed oven doors (16.6%) were leaking in violation of 6-1-10.2(c)(1);

VE opacity at oven 5 exceeded the 20% opacity limit in 6 consecutive readings during pushing (4 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)
- xviii. October 5, 2004** VE opacity at ovens 3 and 21 exceeded the 20% opacity limit in 6 consecutive readings during pushing (8 pushes were observed) in violation of

326 IAC 6-1-10.2(c)(3)(B);

- xix. October 6, 2004 16 of 92 observed oven doors (17%) leaked in violation of 326 IAC 6-1-10.2(c)(1)**

- xx. July 13, 2005 Door emissions from more than 10% (26.6% out of 94 doors) of the observed oven doors in violation of 326 IAC 6-1-10.2(c)(1);**

VE opacity at oven 18 exceeded 20% 6-minute average during pushing in violation of 326 IAC 6-1-10.2(c)(3)(B)

- xxi. July 29, 2005 VE opacity of pushing emissions from ovens 46 and 32 exceeded 20% 6-minute average in violation of 326 IAC 6-1-10.2(c)(3)(B);**

- xxii. January 24, 2006 5.66% of observed off-take assemblies were leaking, exceeding the 5% limit in violation of 326 IAC 6-1-10.2(c)(5);**

- xxiii. January 25, 2006 6.00% of observed off-take assemblies were leaking, exceeding the 5% limit in violation of 326 IAC 6-1-10.2(c)(5);**

- xxiv. February 6, 2006 16.5% of observed oven doors were leaking in violation of 326 IAC 6-1-10.2(c)(1);**

- xxv. February 7, 2006 11.8% of observed oven doors were leaking in violation of 326 IAC 6-1-10.2(c)(1);**

- xxvi. February 9, 2006 12.9% of observed oven doors were leaking in violation of 326 IAC 6-1-10.2(c)(1);**

- xxvii. February 17, 2006 12.5% of observed oven doors were leaking in violation of 326 IAC 6-1-10.2(c)(1);**

- xxviii. Feb. 19, 2006 5.77% of observed off-take assemblies were leaking, exceeding the 5% limit in violation of 326 IAC 6-1-10.2(c)(5);**

- xxix. March 14, 2006 12.7% of observed oven doors were leaking in violation of 326 IAC 6-1-10.2(c)(1);**

- xxx. August 4, 2006 12.7 % of observed oven doors were leaking in violation of 326 IAC 6-1-10.2(c)(1);**

- xxxi. October 5, 2006 21.7% of observed oven doors were leaking in violation of 326 IAC 6-1-10.2(c)(1);**

- xxxii. October 17, 2006 6.38% of observed off-take assemblies were**

leaking, exceeding the 5% limit in violation of 326 IAC 6-1-10.2(c)(5)

h. COB No. 3

- i. **October 20, 1998 15 of 96 observed oven doors (15.6%) were leaking in violation of 326 IAC 6-1-10.2(c)(1)**
- ii. **December 11, 1998 VE opacity at ovens 13, 15, 17, and 23 exceeded 20% 6-minute average during pushing (4 pushes were observed). The opacity was 36.7% in violation of 326 IAC 6-1-10.2(c)(3)(B)**
- iii. **April 22, 1999 VE from ovens 14, 16, 26, 28, 30, and 32 exceeded the limit of 125 seconds during 5 consecutive charging periods and lasted for a cumulative total of 186 seconds after oven 14 was exempted in violation of 326 IAC 6-1-10.2 (c)(2);**

13 of 114 off-take assemblies were leaking, resulting in 11% leakage exceeding the 5% limit in violation of 326 IAC 6-1-10.2(c)(5)
- iv. **April 29, 1999 VE opacity at ovens 38, 40, and 42 exceeded 20% 6-minute average during pushing (3 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)**
- v. **April 14, 2000 VE opacity at ovens 7, 9, and 11 exceeded 20% 6-minute average during pushing (4 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)**
- vi. **June 8, 2000 VE opacity at ovens 26 and 28 exceeded 20% 6-minute average during pushing (2 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)**
- vii. **April 3, 2001 19 of 99 observed oven doors (19%) were leaking in violation of 326 IAC 6-1-10.2 (c)(1);**

VE opacity from the coke side of the battery, ovens 18 and 22, exceeded the 20% opacity limit before the first movement of coke (3 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(A);

VE opacity at ovens 18 and 20 exceeded 20% 6-minute average during pushing (3 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)

- viii. April 9, 2001** **19 of 107 observed oven doors (18%) were leaking in violation of 326 IAC 6-1-10.2(c)(1)**

- ix.** **July 10, 2001 37 of 97 observed oven doors (38%) were leaking in violation of 326 IAC 6-1-10.2(c)(1)**

- x.** **July 18, 2002 VE opacity at oven 14 exceeded 20% 6-minute average during pushing (4 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)**

- xi.** **July 24, 2002 14 of 85 observed oven doors (16%) were leaking in violation of 326 IAC 6-1-10.2(c)(1)**

- xii.** **October 15, 2002 VE opacity at oven 5 exceeded 20% 6-minute average during pushing (3 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B);**

22 of 102 observed oven doors (22%) were leaking in violation of 326 IAC 6-1-10.2(c)(1)

- xiii. September 4, 2003** **12 of 98 observed oven doors (12.2%) were leaking in violation of 326 IAC 6-1-10.2(c)(1)**

- xiv. October 5, 2004** **VE opacity at oven 57 exceeded the 20% opacity limit in 6 consecutive readings during pushing (1 push was observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)**

- xv.** **October 7, 2004 18 of 95 observed oven doors (18%) were leaking in violation of 326 IAC 6-1-10.2(c)(1)**

- xvi. October 20, 2004** **VE opacity at ovens 29, 31, 39, 43, 45, and 47 exceeded the 20% opacity limit in 6 consecutive readings during pushing (10 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)**

- xvii. July 15, 2005** **VE opacity from the offtake piping was greater than 20% after 2 minutes of being opened in violation of 326 IAC 6-1-10.2(c)(5)**

- xviii. July 19, 2005** **VE opacity from the offtake piping was greater than 20% after 2 minutes of being opened in violation of 326 IAC 6-1-10.2(c)(5);**

31 out of 89 observed oven doors (34.8%) were

leaking in violation of 326 IAC 6-1-10.2(c)(1)

xix. July 29, 2005

VE opacity at ovens 7, 9, and 17 exceeded the 20% opacity limit in 6 consecutive readings during pushing in violation of 326 IAC 6-1-10.2(c)(3)(B)

i. COB No. 5

i.

December 31, 1998 VE opacity at ovens 12 and 14 exceeded the 20% opacity limit in 6 consecutive readings during pushing (4 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)

ii.

April 17, 2000 VE opacity from the coke-side of the battery, oven 9, exceeded the 20% opacity limit before the first movement of coke (3 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(A);

VE opacity at ovens 7 and 9 exceeded the 20% opacity limit in 6 consecutive readings during pushing (3 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)

iii.

August 18, 2000 VE opacity at oven 14 exceeded the 20% opacity limit in 6 consecutive readings during pushing (2 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)

iv.

November 28, 2000 VE opacity at ovens 35 and 49 exceeded the 20% opacity limit in 6 consecutive readings during pushing (2 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)

v.

July 10, 2001 15 of 139 observed oven doors (11%) were leaking in violation of 326 IAC 6-1-10.2(c)(1)

vi.

October 30, 2001 VE opacity at oven 26 exceeded the 20% opacity limit in 6 consecutive readings during pushing (3 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)

vii.

July 18, 2002 VE opacity at ovens 57 and 59 exceeded the 20% opacity limit in 6 consecutive readings during pushing (3 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)

- viii. May 1, 2003 **VE opacity at oven 21 exceeded the 20% opacity limit in 6 consecutive readings during pushing (4 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)**
- ix. **July 22, 2004 16 of 131 observed oven doors (12.2%) were leaking in violation of 326 IAC 6-1-10.2(c)(1)**
- x. **July 12, 2005 22 of 142 observed oven doors (15.5%) were leaking in violation of 326 IAC 6-1-10.2(c)(1);**
- xi. May 8, 2006 **16.42% of observed oven doors were leaking in violation of 326 IAC 6-1-10.2(c)(1);**
- xii. July 19, 2006 **18.94% of observed oven doors were leaking in violation of 326 IAC 6-1-10.2(c)(1)**
- j. **COB No. 7**
 - i. **December 16, 1998 VE opacity at oven 44 exceeded the 20% opacity limit in 6 consecutive readings during pushing (4 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)**
 - ii. **April 27, 1999 VE opacity at ovens 10 and 12 exceeded the 20% opacity limit in 6 consecutive readings during pushing (4 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)**
 - iii. **April 17, 2000 VE opacity from the coke-side of the battery, oven 48, exceeded the 20% opacity limit before the first movement of coke (4 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(A)**
 - iv. **August 18, 2000 22 of 148 observed oven doors (15%) were leaking in violation of 326 IAC 6-1-10.2(c)(1)**
 - v. **April 9, 2001 20 of 123 observed oven doors (16%) were leaking in violation of 326 IAC 6-1-10.2(c)(1)**
 - vi. **July 10, 2001 19 of 143 observed oven doors (13%) were leaking in violation of 326 IAC 6-1-10.2(c)(1)**
 - vii. **October 30, 2001 VE opacity at ovens 69, 71**

and 73 exceeded the 20% opacity limit in 6 consecutive readings during pushing (4 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)

vii. May 1, 2003 VE opacity at ovens 2, 4, and 77 exceeded the 20% opacity limit in 6 consecutive readings during pushing (4 pushes were observed) in violation of 326 IAC 6-1-10.2(c)(3)(B)

viii August 4, 2005 VE opacity of pushing emissions at oven 70 exceeded the 20% 6-minute average in violation of 326 IAC 6-1-10.2(c)(3)(B);

ix. January 23, 2006 10.96% of observed oven doors were leaking in violation of 326 IAC 6-1-10.2(c)(1);

x. March 8, 2006 7.97% of observed off-take assemblies were leaking, exceeding the 5% limit in violation of 326 IAC 6-1-10.2(c)(5);

xi. June 16, 2006 5.80% of observed off-take assemblies were leaking, exceeding the 5% limit in violation of 326 IAC 6-1-10.2(c)(5);

xii. August 25, 2006 12.00% of observed oven doors were leaking in violation of 326 IAC 6-1-10.2(c)(1);

xiii. November 6, 2006 11.11% of observed oven doors were leaking in violation of 326 IAC 6-1-10.2(c)(1);

xiv. November 9, 2006 5.97% of observed off-take assemblies were leaking, exceeding the 5% limit in violation of 326 IAC 6-1-10.2(c)(5)

k. No. 2 Q-BOP

i. June 17, 1999 VE from the roof monitor exceeded the 20% opacity limit during two 3-minute averaging periods in violation of 326 IAC 6-1-10.1(e)

ii. May 25, 2001 VE from the powdered lime truck unloading operations exceeded the 20% opacity limit during one 3-minute averaging period in violation of 326 IAC 6-1-11.1(d)(9)

l. Nos. 2 and 3 Precarbonization C-Line

- i. **June 28, 2000** During the test, PM/CPM emissions exceeded the 31.25 lbs/hour limit and were 33.46 lbs/hour in violation of the Order
 - ii. **January 23, 2003** During the test, PM/CPM emissions exceeded the 31.25 lbs/hour limit and were 51.05 lbs/hour in violation of the Order
 - iii. **December 22, 2004** During the test, PM/CPM emissions exceeded the 31.25 lbs/hour limit and were 43.03 lbs/hour in violation of the Order
- m. **COB - Underfire Stack Continuous Opacity Monitoring ("COM") Violations**
 - i. **2nd Quarter 1999** **2nd Quarter 1999 - COM**
Downtime - COB No. 3 in violation of 326 IAC 3-5-1(c)(7);

2nd Quarter 1999 - COM Exceedances at COB Nos. 2, 3, 5, and 7 in violation of 326 IAC 5-1-2(2)(B)
 - ii. **3rd Quarter 1999** **3rd Quarter 1999 - COM**
Downtime at COB No. 2 in violation of 326 IAC 3-5-1(c)(7);

3rd Quarter 1999 - COM Exceedances at COB Nos. 2, 3, 5, and 7 in violation of 326 IAC 5-1-2(2)(B)
 - iii. **4th Quarter 1999** **4th Quarter 1999 - COM**
Downtime at COB Nos. 2, 3, 5, and 7 in violation of 326 IAC 3-5-1(c)(7);

4th Quarter 1999 - COM Exceedances at COB Nos. 2, 3, and 7 in violation of 326 IAC 5-1-2(2)(B)
 - iv. **1st Quarter 2000** **1st Quarter 2000 - COM**
Downtime at COB Nos. 2, 3, 5, and 7 in violation of 326 IAC 3-5-1(c)(7);

1st Quarter 2000 - COM Exceedances at COB Nos. 2 and 3 in violation of 326 IAC 5-1-2(2)(B)
 - v. **2nd Quarter 2000** **2nd Quarter 2000 - COM**
Exceedances at COB Nos. 2 and 3 in violation of 326 IAC 5-1-2(2)(B)
 - vi. **3rd Quarter 2000** **3rd Quarter 2000 - COM**
Exceedances at COB Nos. 2 and 3 in violation of

326 IAC 5-1-2(2)(B)

- vii. **4th Quarter 2000 4th Quarter 2000 - COM
Exceedances at COB Nos. 2, 3, and 5 in violation
of 326 IAC 5-1-2(2)(B)**

- vii. **1st Quarter 2001 1st Quarter 2001 - COM
Exceedances at COB Nos. 2 and 3 in violation of
326 IAC 5-1-2(2)(B)**

- viii. **2nd Quarter 2001 2nd Quarter 2001 - COM Exceedances at COB
No. 3 in violation of 326 IAC 5-1-2(2)(B)**

- ix. **3rd Quarter 2001 3rd Quarter 2001 - COM Downtime at COB No. 7
in violation of 326 IAC 3-5-1(c)(7);**

**3rd Quarter 2001 - COM Exceedances at COB Nos.
2 and 3 in violation of 326 IAC 5-1-2(2)(B)**

- x. **4th Quarter 2001 4th Quarter 2001 - COM
Exceedances at COB Nos. 2, 3, and 5 in violation
of 326 IAC 5-1-2(2)(B)**

- xi. **1st Quarter 2002 1st Quarter 2002 - COM
Downtime at COB No. 5 in violation of 326 IAC 3-5-
1(c)(7);**

**1st Quarter 2002 - COM Exceedances at COB No. 3
in violation of 326 IAC 5-1-2(2)(B)**

- xii. **2nd Quarter 2002 2nd Quarter 2002 - COM
Exceedances at COB Nos. 2 and 3 in violation of
326 IAC 5-1-2(2)(B)**

- xiii. **3rd Quarter 2002 3rd Quarter 2002 - COM Downtime at COB No. 7
in violation of 326 IAC 3-5-1(c)(7);**

**3rd Quarter 2002 - COM Exceedances at COB No.
3 in violation of 326 IAC 5-1-2(2)(B)**

- xiv. **4th Quarter 2002 4th Quarter 2002 - COM Exceedances at COB
No. 3 in violation of 326 IAC 5-1-2(2)(B)**

- xv. **1st Quarter 2003 1st Quarter 2003 - COM
Exceedances at COB Nos. 3 and 5 in violation of
326 IAC 5-1-2(2)(B)**

- xvi. 2nd Quarter 2003 2nd Quarter 2003 - COM Exceedances at COB
Nos. 2, 3, and 7 in violation of 326 IAC 5-1-2(2)(B)**
- xvii. 3rd Quarter 2003 3rd Quarter 2003 - COM Exceedances at COB
Nos. 2, 3, 5, and 7 in violation of 326 IAC 5-1-2(2)
(B)**
- xviii. 4th Quarter of 2003 4th Quarter 2002 - COM exceedances at
COB No. 3 in violation of 326 IAC 5-1-2(2)(B)**
- xix. 1st Quarter of 2003 1st Quarter 2003 - COM exceedances at COB
Nos. 3 and 5 in violation of 326 IAC 5-1-2(2)(B)**
- xx. 2nd Quarter of 2003 2nd Quarter 2003 - COM
exceedances at COB Nos. 2, 3, and 7 in violation
of 326 IAC 5-1-2(2)(B)**
- xxi. 3rd Quarter of 2003 3rd Quarter 2003 - COM exceedances at COB
Nos. 2, 3, 5, and 7 in violation of 326 IAC 5-1-2(2)
(B)**
- xxii. 4th Quarter of 2003 4th Quarter 2003 – COM exceedances at COB
Nos. 2, 3, 5, and 7 in violation of 326 IAC 5-1-2(2)
(B)**
- xxiii. 1st Quarter of 2004 1st Quarter 2003 – COM exceedances at COB
Nos. 2, 3, and 7 in violation of 326 IAC 5-1-2(2)(B)**
- xxiv. 2nd Quarter of 2004 2nd Quarter 2003 – COM exceedances
at COB Nos. 2, 3, 5, and 7 in violation of 326 IAC 5-
1-2(2)(B)**
- xxv. 3rd Quarter of 2004 3rd Quarter 2003 – COM exceedances at
COB Nos. 2, 3, 5, and 7 in violation of 326 IAC 5-1-
2(2)(B)**
- xxvi. 4th Quarter of 2004 4th Quarter 2003 – COM exceedances at
COB Nos. 2, 3, 5, and 7 in violation of 326 IAC 5-1-
2(2)(B)**
- xxvii. 1st Quarter of 2005 1st Quarter 2005 – COM exceedances at COB
Nos. 2,3,5, and 7 in violation of 326 IAC 5-1-2(2)(B)**
- xxviii. 2nd Quarter, 2005 2nd Quarter 2005 – COM exceedances at COB
Nos. 2, 3, 5, and 7 in violation of 326 IAC 5-1-2(2)
(B)**

xxix. 3rd Quarter of 2005 3rd Quarter 2005 – COM exceedances at COB Nos. 2, 3, 5, and 7 in violation of 326 IAC 5-1-2(2)(B)

xxx. 4th Quarter of 2005 4th Quarter 2005 – COM exceedances at COB Nos. 2, 5, and 7 in violation of 326 IAC 5-1-2(2)(B)

xxxi. 1st Quarter of 2006 1st Quarter 2006 – COM exceedances at COB Nos. 2, 5, and 7 in violation of 326 IAC 5-1-2(2)(B)

xxxii. 2nd Quarter of 2006 2nd Quarter 2006 – COM exceedances at COB Nos. 2, 5, and 7 in violation of 326 IAC 5-1-2(2)(B)

10. Respondent shut down COB No. 3 in October 2005.
11. On June 12, 2002, Respondent conducted a testing for PM emissions on the No. 2 Precarbonization Line. The results of this test demonstrated compliance with the provisions of Agreed Order in Cause Nos. A-960, et al. and the July 6, 1998, testing agreement.
12. On June 13, 2002, Respondent conducted testing for PM emissions on the No. 3 Precarbonization Line. The results of this test demonstrated compliance with the provisions of Agreed Order in Cause Nos. A-960, et al. and the July 6, 1998, testing agreement.
13. In response to the compliance problems associated with the operation of the COMs at the COB underfire stacks, Respondent replaced these COMs in December 1999.
14. On August 10, 2000, Respondent completed the installation of a new large bell at BF No. 4.
15. On April 8, 1999, the terms of Agreed Order in Cause Nos. A-2426, et al. ("1999 Order") became effective. Included in the 1999 Order are requirements for compliance with the opacity standard at the BF No. 8. Order Paragraph No. 2 of the 1999 Order required Respondent to observe visible emissions from the top of BF No. 8 for four (4) hours per day, five (5) days per week. Upon review of the opacity reports for the time period of May 1, 1999, through February 29, 2000, numerous violations of this requirement were noted. Pursuant to Order Paragraph No. 3 of the 1999 Order, stipulated penalties are assessed for these violations and hereby demanded by IDEM. IDEM has determined the stipulated penalties to be One Hundred Thousand Dollars (\$100,000.00).
16. Respondent contends that for exceedances other than those associated with COB pushing and doors, the aforementioned exceedance events were generally isolated and infrequent incidents. Each event was investigated and the cause identified and corrected, but no systemic root cause was identified. USS Gary Works employs an ISO 14001 Certified Environmental Management System that identifies and addresses key Environmental Objectives in each of its operating areas. These objectives are assigned specific, measurable targets that require

Environmental Programs and Procedures to achieve. A structured Continuous Improvement methodology is employed to insure progress in achieving the defined Environmental Objectives and Targets.

17. Respondent contends that, with respect to its COBs:

- a. USS Gary Works employs an ISO 14001 Certified Environmental Management System that identifies and addresses key Environmental Objectives in each of its operating areas. These objectives are assigned specific, measurable targets that require Environmental Programs and Procedures to achieve. A structured Continuous Improvement methodology is employed to insure progress in achieving the defined Environmental Objectives and Targets.**
- b. USS Gary Works Coke Operations has:**
 - i. Instituted a system of Work Practice Audits on all its coke batteries. These audits, conducted by a third party, check on compliance with work practices and procedures. Any audit deficiencies are followed up with focused employee training or retraining;**
 - ii. Began an Employee Involvement Program that involves the people closest to the work activities and rewards compliance with work practices and procedures by measuring environmental compliance by work areas and teams;**
 - iii. Made improvements in coke heating and procedures to prevent the pushing of "green coke;"**
 - iv. Improved battery integrity by increasing inspections and repairs as well as oven thru-wall patching and replacements;**
 - v. Installed new Continuous Opacity Monitors (COMs) in December of 1999. The COMS were replaced again in April of 2006 to comply with 40 CFR 63 Subpart CCCCC; and**
 - vi. Conducted compliance testing and began all parametric monitoring of its pushing, quenching, soaking and battery stacks required by the new coke MACT (40 CFR 63 Subpart CCCCC).**

18. Respondent contends that, with respect to its Precarbon Stack Tests:

- a. Respondent failed three (3) Stack Tests from June 28, 2000 to December 22, 2004;**
- b. Emissions testing was conducted in August of 2004 at both Precarbon Nos. 2 and 3 to show compliance with the Indiana SIP Limits. This testing required the simultaneous testing of two (2) precarbon operating lines operating at greater than 95% capacity. The results of this testing showed emissions at less than half of the allowable level.**

19. In recognition of the settlement reached, Respondent waives any right to administrative and judicial review of this Agreed Order.

II. ORDER

1. This Agreed Order shall be effective ("Effective Date") when it is approved by the Complainant or her delegate, and has been received by the Respondent. This Agreed Order shall have no force or effect until the Effective Date.
2. Upon the Effective Date of this Order, Respondent shall comply with IC 30-30-2-1, 326 IAC 3-5-1(c)(7), 326 IAC 5-1-2(2)(B), 326 IAC 6-10.1(e), 326 IAC 6-1-10.2(c)(1), 326 IAC 6-10.2(c)(2), 326 IAC 6-10.2(c)(3)(A), 326 IAC 6-1-10.2(c)(3)(B), 326 IAC 6-1-10.2(c)(5), 326 IAC 6-1-11.1(d)(3)(A), 326 IAC 6-11.1(d)(7)(D), 326 IAC 6-11.1(d)(9), Part 70 operating permits, Agreed Order Cause Nos. A-960, et al. and A-2426, et al., and other applicable regulations.
3. No later than ten (10) days from the Effective Date of this Order, Respondent shall, at COB Nos. 2, 5, and 7:

- a. observe at least six (6) consecutive pushes per day per COB in accordance with procedures in 326 IAC 6.8-9-3(3)(B) and calculate percent compliance in accordance with 326 IAC 6.8-9-3(3)(B) during pushing operations for each COB using the following equation:

$$\text{Percent Violations) } \cdot 100\% = \frac{(\text{Total No. of Observations} - \text{No. of Observed Violations})}{\text{Total No. of Observations}} \cdot 100\%$$

Compliance (%) =
Per Calendar Quarter

Pushing violations caused by an emergency, as defined at 326 IAC 2-7-1 (12), shall not be used to determine percent compliance in the above calculation.

Respondent may, at its option, on a per COB basis, reduce the number of pushes observed per COB from at least six (6) per day to at least (4) per day after the above monitoring shows that at least 99% compliance has been maintained for four (4) consecutive calendar quarters.

- b. maintain on-site daily records of compliance with all applicable VE regulations during pushing operations, separately for each COB, for a period of at least five (5) years (unless specified otherwise in this Agreed Order) and make them available to IDEM representatives on demand; and
 - c. submit quarterly summaries of these records to IDEM's Northwest Regional Office ("NWRO") not later than ten (10) days after the end of each calendar quarter.
4. No later than ten (10) days following the Effective Date of this Order, Respondent shall:

- a. with respect to pushing at COB Nos. 2, 5 or 7:
 - i. in the event pushing fugitive visible emissions exceed opacity limits at 326 IAC 6.8-9-3(3)(B) and are not attributable to an emergency, as defined at 326 IAC 2-7-1(12), Respondent shall implement work practices as described at 40 CFR 63.7291(a)(1) through (7) for the oven exceeding opacity limits at 326 IAC 6.8-9-3(3)(B) to correct the problem.
 - ii. in the event compliance with 326 IAC 6.8-9-3(3)(B) cannot be demonstrated after two (2) attempts to correct the problem, Respondent shall submit to IDEM a written work plan and will not push that oven until all elements of the written work plan are completed.
- b. with respect to oven door leaks at COB Nos. 2, 5 and 7:
 - i. using daily door inspection data collected in accordance with 40 CFR 63 Subpart L, determine the compliance status of each inspection with oven door emission limits at 326 IAC 6-1-10.2 (c)(1). Oven door emissions which are attributable to an emergency, as defined at 326 IAC 2-7-1(12) shall not be included in the calculation for compliance.
 - ii. in the event there is more than one (1) inspection in any calendar month that exceeds applicable door emission limits for any single COB, Respondent shall implement work practice standards for doors in accordance with 40 CFR 63.306 for that battery. Work practices implemented at any single COB shall remain in effect until four (4) consecutive calendar months of compliance with the applicable door emission limits have been achieved for that particular COB.
 - iii. in the event there are more than two (2) inspections in any calendar month that exceed applicable door emission limitations for any single COB, Respondent shall revise the 40 CFR 63.306 work practices for oven doors, implement the revised work practices and submit the revised work practices to IDEM. Work practices on that battery shall remain in effect until four (4) consecutive calendar months of compliance with the applicable door emission limits have been achieved for that particular COB.

- 5. No later than thirty (30) days after the Effective Date of this Order, Respondent shall submit to IDEM a quarterly Refractory Repairs Compliance Plan ("RRCP") for COB Nos. 2, 5, and 7 detailing planned oven wall repairs for the subsequent calendar quarter. The RRCP shall include any planned end flue or through wall work and, in addition, shall indicate if other repair work, such as panel patching or other refractory restoration activities, is anticipated to be conducted during the reporting period. After Respondent submits its first quarterly RRCP, each

subsequent RRCP submitted to IDEM shall detail all relevant and appropriate repair work accomplished by Respondent during one or more of the previous calendar quarters.

Flue caps may be removed from COB Nos. 2, 5 and 7 for the purpose of operating each COB in a safe and efficient manner. Respondent shall develop and maintain records and provide IDEM a quarterly report listing smoking flues where flue caps were left off for longer than one (1) complete coking cycle for any reason other than those listed in (i) through (vii) below.

- i. taking a temperature reading;
- ii. observation of flue conditions;
- iii. determination of burners status;
- iv. emergency situations;
- v. maintenance of flues and burners;
- vi. burning carbon from flues; or
- vii. other reason mutually agreed upon in writing by and between IDEM and Respondent.

6. Upon the Effective Date of this Order, Respondent shall, upon an exceedance of the $150 \mu\text{g}/\text{m}^3$ 24-hour PM_{10} ambient air quality standard at the Gary IITRI monitoring site that (1) was identified when the wind direction was emanating from between 300° and 360° as measured on a windrose; and (2) when Respondent cannot show to IDEM's satisfaction that Respondent is not culpable for such exceedance, implement an On-site Monitoring Compliance Plan ("MCP") in accordance with the following:

- a. No later than ninety (90) days after the culpability determination, Respondent shall submit to IDEM for its approval:
 - i. MS-1 and MS-2 Monitoring Plans; and
 - ii. MS-1 and MS-2 Quality Assurance Plans
- b. In installing and operating MS-1 and MS-2, Respondent shall consider the following:
 - i. a tapered element oscillating microbalance ("TEOM") continuous air monitor(s), EPA-approved as a reference or equivalent method, which provide(s) hourly PM_{10} and $\text{PM}_{2.5}$ data; and
 - ii. a 24-hour gravimetric monitor, EPA-approved as a reference or equivalent method, which produces a total of 365 daily 24-hour samples each calendar year, and utilizes filters enabling further analysis of the collected samples.
- c. In accordance with the MCP, Respondent shall, subject to IDEM's

approval, install and begin operating two (2) on-site monitoring stations (“MS”), located:

- i. northwest from the Coke Plant, approximately equidistant from the blast furnaces and the coke plant (“MS-1”); and**
- ii. east of the Coke Plant, approximately one quarter (1/4) of a mile from the Coke Plant (“MS-2”).**

d. Respondent shall:

- i. collect data as required by IDEM’s Indiana Quality Assurance Manual, revised on January 1, 2006 (“QAM”), and incorporated herein by reference;**
 - ii. provide the collected data to IDEM quarterly within sixty (60) days after the end of each calendar quarter;**
 - iii. maintain the collected data and preserve the samples on-site for a period of at least two (2) years after the collection date and make the data available to IDEM representatives on demand in both hard copy format and on-line;**
 - iv. analyze the collected samples and present the analysis results to IDEM within thirty (30) days upon IDEM’s demand;**
 - v. use only IDEM-approved laboratories for the sample analyses;**
 - vi. maintain and repair equipment at MS-1 and MS-2 as required by IDEM’s QAM; and**
 - vii. operate MS-1 and MS-2 for a minimum of two (2) years, with discontinuation contingent upon the Gary ITRI monitoring site (ID No. 180890022) meeting the PM₁₀ National Ambient Air Quality Standards.**
- e. Respondent shall maintain at least ninety percent (90%) of valid daily data return.**
- f. This Order does not relieve Respondent of (nor waive its rights to contest) any requirement of 326 IAC 6.8-11 if found by IDEM to be causing or contributing to an exceedance under 326 IAC 6.8-11-3.**

7. All submittals required by this Agreed Order, unless notified otherwise in writing, shall be sent to:

**Edward Judson
Office of Compliance & Enforcement
Indiana Department of Environmental Management
100 North Senate Avenue, Mail Code 60-02**

Indianapolis, Indiana 46204-2251

- 8. Respondent is assessed a total penalty in the amount of Two Million Four Hundred Fifty-Seven Thousand Dollars (\$2,457,000.00), composed of:**
- a. a civil penalty of Two Million Three Hundred Fifty-Seven Thousand Two Hundred Fifty Dollars (\$2,357,000.00) for the violations described in Findings of Fact Paragraph No. 9; and**
 - b. stipulated penalties of One Hundred Thousand Dollars (\$100,000.00) for the violations described in Findings of Fact Paragraph No. 15 of this Order.**

Within thirty (30) days of the Effective Date of the Agreed Order, Respondent shall pay a portion of this civil penalty in the amount of Four Hundred Seventy-One Thousand Four Hundred Dollars (\$471,400.00) and the entire stipulated penalty of One Hundred Thousand Dollars (\$100,000.00). Said penalty amounts shall be due and payable to the "Environmental Management Special Fund."

In lieu of payment of the remaining civil penalty, Respondent shall perform and complete three (3) Supplemental Environmental Projects ("SEPs"), valued at Three Million Six Hundred Seventy-One Thousand Two Hundred Dollars (\$3,671,200.00). Within thirty (30) days of completing each SEP, Respondent shall submit to IDEM written notice and documentation which substantiates all actions taken and costs incurred with respect to each SEP.

- c. As SEP No. 1, Respondent shall provide One Hundred Thousand Dollars (\$100,000.00) to the Environmental Learning Center. Respondent shall complete this SEP within thirty (30) days of the Effective Date of the Agreed Order.**
- d. As SEP No. 2, Respondent shall donate approximately thirteen (13) acres of land and an existing warehouse building located in Porter County, Indiana, to the Indiana Department of Natural Resources or other appropriate not-for-profit entity for use as parkland and for public access to the adjoining lakeshore. The property is located adjacent to U. S. Highway 12. A description of the property is attached hereto and incorporated by reference as Attachment A. This SEP is valued at Two Million Two Hundred Twenty-Five Thousand Dollars (\$2,225,000.00). Respondent shall complete this SEP by no later than December 31, 2008.**
- e. As SEP No. 3, Respondent shall identify, prioritize, arrange for the proper transport and disposal, and replacement of polychlorinated biphenyl-containing or contaminated transformers existing at the Site and Respondent's Midwest Plant in Porter County, Indiana ("Midwest Site"). Within sixty (60) days of the Effective Date of the Agreed Order, Respondent shall submit a list of such transformers (to be replaced with non-polychlorinated biphenyl-containing or**

contaminated transformers) to IDEM. Respondent shall expend no less than One Million Three Hundred Forty-Six Thousand Two Hundred Dollars (\$1,346,200.00) on this SEP. Additionally, Respondent shall complete this SEP by no later than December 31, 2008. In the event that the cost of SEP No. 3 is less than \$1,346,200.00, Respondent shall pay 50% of the difference between \$1,346,200.00 and the actual cost of the SEP.

In the event that the Respondent does not perform SEP No. 1 and/or SEP No. 2, and/or SEP No. 3 within the prescribed timeframes above, One Hundred Thousand Dollars (\$100,000.00) and/or One Million One Hundred Twelve Thousand Five Hundred Dollars (\$1,112,500.00) and/or Six Hundred Seventy-Three Thousand One Hundred Dollars (\$673,100.00), respectively, plus interest established by IC 24-4.6-1-101 will be due within fifteen (15) days from Respondent's receipt of IDEM's notice to pay. Interest, at the rate established by IC 24-4.6-1-101, shall be calculated on the amount due from the date which is thirty (30) days after the Effective Date of this Agreed Order until the full civil penalty is paid.

9. In the event the terms and conditions of the following paragraphs are violated, then

- a. Complainant may assess and Respondent shall pay a stipulated penalty in the following amount:

	<u>Violation</u>	<u>Penalty</u>
battery/day	i. Order Paragraph No. 3(a)	\$1,000.00 per
	ii. Order Paragraph No. 3(c)	\$500.00 per day
	iii. Order Paragraph No. 4(a)(i)	\$1,000.00 per day
	iv. Order Paragraph No. 4(a)(ii)	\$2,500.00 per day
	v. Order Paragraph No. 4(b)(i)	\$1,000.00 per
battery/day	vi. Order Paragraph No. 4(b)(ii)	\$1,000.00 per day
day/violation	vii. Order Paragraph No. 4(b)(iii)	\$500.00 per
day/report	viii. Order Paragraph No. 5	\$1,000.00 per
	ix. Order Paragraph No. 6(a) or (c)	\$1,000.00 per day;

- b. Respondent waives issuance of a Notice of Violation and the settlement period of sixty (60) days as provided for by IC 13-30-3-3,

when violations described in Order Paragraph No. 2 are observed and/or discovered.

10. Stipulated penalties shall be due and payable within thirty (30) days after Respondent receives written notice that the Complainant has determined a stipulated penalty is due. Assessment and payment of stipulated penalties shall not preclude the Complainant from seeking any additional relief against the Respondent for violation of the Agreed Order. In lieu of any of the stipulated penalties given above, the Complainant may seek any other remedies or sanctions available by virtue of Respondent's violation of this Agreed Order or Indiana law, including, but not limited to, civil penalties pursuant to IC 13-30-4.
11. Civil and stipulated penalties are payable by check to the "Environmental Management Special Fund." Checks shall include the Case Number of this action and shall be mailed to:

Indiana Department of Environmental Management
Cashier's Office
100 North Senate Avenue, Mail Code 50-10C
Indianapolis, Indiana 46204-2251
12. "Force Majeure," for purposes of this Agreed Order, is defined as any event arising from causes totally beyond the control and without fault of the Respondent that delays or prevents the performance of any obligation under this Agreed Order despite Respondent's best efforts to fulfill the obligation. The requirement that the Respondent exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (1) as it is occurring and (2) following the potential force majeure event, such that the delay is minimized to the greatest extent possible. "Force Majeure" does not solely include changed business or economic conditions, financial inability to complete the work required by this Agreed Order, or increases in costs to perform the work.
13. The Respondent shall notify IDEM by calling the case manager within three (3) calendar days and by writing no later than seven (7) calendar days after it has knowledge of any event which the Respondent contends is a force majeure. Such notification shall describe the anticipated length of the delay, the cause or causes of the delay, the measures taken or to be taken by the Respondent to minimize the delay, and the timetable by which these measures will be implemented. The Respondent shall include with any notice all available documentation supporting its claim that the delay was attributable to a force majeure. Failure to comply with the above requirements shall preclude Respondent from asserting any claim of force majeure for that event. The Respondent shall have the burden of demonstrating that the event is a force majeure. The decision of whether an event is a force majeure shall be made by IDEM.
14. If a delay is attributable to a force majeure, IDEM shall extend, in writing, the time period for performance under this Agreed Order, by the amount of time that is directly attributable to the event constituting the force majeure.

15. In the event that the civil and stipulated penalties are not paid as required by Order Paragraph Nos. 8 & 9, Respondent shall pay interest on any unpaid balances at the rate established by IC 24-4.6-1-101. The interest shall continue to accrue until the civil and stipulated penalties are paid in full.
16. Compliance with the terms of this Agreed Order shall not relieve Respondent from compliance with any and all applicable state and federal regulations and/or permits.
17. This Agreed Order shall apply to and be binding upon the Respondent, its successors and assigns. The Respondent's signatories to this Agreed Order certify that they are fully authorized to execute this document and legally bind the parties
18. they represent. No change in ownership, corporate, or partnership status of the Respondent shall in any way alter its status or responsibilities under this Agreed Order.
19. In the event that any terms of the Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if the Agreed Order did not contain the invalid terms.
20. The Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners or successors before ownership rights are transferred.
Respondent shall ensure that all contractors, firms and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
21. This Agreed Order resolves (1) all air pollution violations cited in the Notices of Violation noted herein; (2) all air pollution violations noted in this Agreed Order which were not cited in a Notice of Violation; and (3) all similar opacity and visible emissions violations at the Site through December 1, 2006.
22. The termination of Order Paragraph Nos. 3, 4, 5, and 10(a)(i) through 10(a)(viii) of this Agreed Order shall be effective upon the:
 - a. demonstration by Respondent of continued operation in compliance with all applicable requirements as shown by: (i) four (4) successive calendar quarters of equal to or greater than 99% compliance with pushing visible emission standards per COB; and (ii) four (4) successive calendar months showing no more than one (1) exceedance per month of door leak visible emission standards per COB (hereinafter referred to as "Compliance Demonstration");
 - b. payment of any civil and stipulated penalties due under this Order;
 - c. certification by Respondent to IDEM that it has (i) paid the civil penalty and all stipulated penalties incurred; and (ii) made the Compliance Demonstration; and
 - d. the failure of IDEM, within sixty (60) days of submittal of the

certification above, to provide to Respondent written notice that IDEM has determined, on the basis of reasonable and sufficient observations, that Respondent has not paid the penalties or made the necessary Compliance Demonstration.

23. The termination of the remainder of this Agreed Order shall be effective upon the:

- a. completion of all SEPs as directed by Order Paragraph No. 8;**
- b. certification by Respondent to IDEM that it has complied with Order Paragraph No. 8; and**
- c. the failure of IDEM, within sixty (60) days of submittal of the certification above, to provide to Respondent written notice that IDEM has determined, on the basis of reasonable and sufficient observations, that Respondent has not complied with Order Paragraph No. 8.**

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TECHNICAL RECOMMENDATION:
Department of Environmental Management

By: _____
David P. McIver, Chief
Air Section
Office of Enforcement

Date: _____

COUNSEL FOR COMPLAINANT:
Department of Environmental Management

By: _____
Office of Legal Counsel

Date: _____

RESPONDENT:
United States Steel Corporation

By: _____
Printed: _____
Title: _____

Date: _____

COUNSEL FOR RESPONDENT:

By: _____

Date: _____

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT THIS _____ DAY OF _____, 200 ____.

For The Commissioner:

Signed on December 1, 2006

Matthew T. Klein
Assistant Commissioner for
Compliance and Enforcement